

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

_____)	
FOX NEWS NETWORK, LLC and)	
CHRISTOPHER WALLACE,)	
)	
)	Case No. 4:10-cv-00906 GAF
)	
Plaintiffs,)	
)	
v.)	
)	
ROBIN CARNAHAN FOR SENATE, INC.,)	
)	
Defendant.)	
_____)	

MOTION FOR CLERK’S ENTRY OF DEFAULT

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI:

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, Plaintiffs Fox News Network, LLC (“FNC”) and Christopher Wallace (“Wallace”) (together, “Plaintiffs”), by and through their undersigned attorneys, hereby request that the Clerk enter default in this matter against Defendant Robin Carnahan for Senate, Inc. (“Defendant”) on the ground that it has failed to answer or otherwise defend against the amended complaint in this action (the “Amended Complaint”) within the time period prescribed by the Federal Rules of Civil Procedure. (*See* Declaration of Bernard J. Rhodes in Support of Motion for Clerk’s Entry of Default ¶ 6, attached hereto as Exhibit A (the “Rhodes Decl.”); Proof of Service for the initial complaint in this action (the “Initial Complaint”), attached hereto as Exhibit B; Amended Complaint, with certificate of service, attached hereto as Exhibit C; and a copy of the Court’s docket, attached hereto as Exhibit D.)

Plaintiffs served the Summons and Initial Complaint on Defendant on September 17, 2010, as evidenced by the proof of service on file with this Court. (Rhodes Decl. ¶ 2, Ex. B.) Defendant filed a motion to dismiss the Initial Complaint on October 8, 2010, but that motion was rendered a legal nullity on October 25, 2010, when Plaintiffs electronically served Defendant with an Amended Complaint that corrected the purported technical pleading defect in the Initial Complaint. (*Id.*, Ex. C.) As such, in accordance with Rule 15(a)(3) of the Federal Rules of Civil Procedure, Defendant was required to respond to the Amended Complaint on or before the next Court day within 14 days of service (plus three additional days pursuant to Rule 6(d)), i.e., on or before November 12, 2010. (*Id.* ¶ 6.) Defendant has not requested an extension of time to respond to the Amended Complaint. (*Id.* ¶ 5.) Defendant has failed to answer or otherwise respond to the Amended Complaint within the allotted time. (*Id.* ¶ 6; Ex. D.) Accordingly, Defendant is in default. A proposed Entry of Default is attached hereto as Exhibit E.

Dated: November 22, 2010

Respectfully submitted,
LATHROP & GAGE LLP

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*Attorneys for Plaintiffs Fox News Network, LLC
and Christopher Wallace*

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2010 I electronically filed the foregoing, with its exhibits, using the CM/ECF system, which will send a notice of electronic filing to the following:

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/s/ Bernard J. Rhodes
An Attorney for Plaintiffs